

Summary of Legislation Affecting The Department of Revenue

57TH Legislative Assembly
2001



Lower Two Medicine Lake

Tax Policy & Research Process
Montana Department of Revenue

May 2001

Table of Contents

<i>Property Tax.....</i>	<i>1</i>
<i>Corporation License & Individual Income Tax.....</i>	<i>8</i>
<i>Natural Resource Tax.....</i>	<i>18</i>
<i>Motor Vehicle Tax.....</i>	<i>22</i>
<i>Liquor & Tobacco Tax.....</i>	<i>24</i>
<i>Inheritance & Miscellaneous Taxes.....</i>	<i>28</i>
<i>Department of Revenue Sponsored Legislation.....</i>	<i>29</i>
<i>Bills Affecting General Fund Revenue Flow.....</i>	<i>34</i>
<i>Bills Affecting Revenue Administration.....</i>	<i>37</i>

Summary of Legislation Affecting the Department of Revenue
57th Legislative Assembly – 2001

Property Tax

HB 37 Short Title: **Revise mill levy certification**
Primary Sponsor: John Witt

This bill repeals language requiring the Department of Revenue to certify mill levies to county governing bodies, and removes the requirement that local taxing authorities adopt a resolution to increase mill levies in excess of the certified mill levies. It continues the requirement that the department is to furnish the total taxable value of each taxing jurisdiction, and a written estimate of the value of newly taxable property.

Effective Date: July 1, 2001

HB124 Short Title: **Revise local government funding (a.k.a. “The Big Bill”)**
Primary Sponsor: Bob Story

See section on Bills Affecting Revenue Administration for description.

HB 351 Short Title: **Tax incentive for unused commercial buildings**
Primary Sponsor: Alan Olson

Under this bill commercial property that increases in taxable value by at least 5% from remodeling, reconstruction, or expansion may receive a property tax exemption during the construction period, and a property tax abatement for the 4 years following the exemption. The property tax exemption and abatement is limited to the increase in value attributed to remodeling, reconstruction, or expansion. To be eligible for the property tax exemption and abatement under this bill, the commercial building or structure must not be used in a business for at least 6 months immediately preceding the date of application for the property tax reduction.

Effective Date: Effective on passage and approval
Applicability Date: Applies retroactively to property tax years beginning after December 31, 2000

HB 362 Short Title: **Tax exemption for machinery and equipment used in producing ethanol**

Primary Sponsor: Joe McKenney

This bill exempts from taxation all manufacturing machinery, fixtures, equipment and tools used for the production of ethanol from grain. The exemption period includes the time during which the facility is under construction, and 10 years after the initial production of ethanol.

Effective Date: October 1, 2001

Applicability Date: Applies to tax years beginning after December 31, 2001

HB 600 Short Title: **Tax exemption for energy generating equipment for a business**

Primary Sponsor: Sylvia Bookout-Reinicke

HB600 provides a property tax exemption for a portion, or all, of the value of noncommercial electrical generation machinery and equipment used to produce electrical energy for use by the owner in the owner's business. The exemption would apply to noncommercial electric generation machinery and equipment that is currently owned, or that is purchased after the effective date of the proposal.

To qualify for the exemption, at least 80% of the electrical energy produced must be used by the owner in the owner's business. The amount of value exempt from property tax is based on the amount of electric energy generated that is used by the owner in the business. For example, if 85% of the electrical energy generated is used in the business then 85% of value is exempted from property tax.

Effective Date: Effective on passage and approval

Applicability Date: Applies retroactively to property tax years beginning after December 31, 2000

Termination Date: December 31, 2004

HB 609 Short Title: **Revise criteria for establishing productive values for agricultural land**

Primary Sponsor: Bob Story

This bill allows the land advisory committee, which meets to recommend agricultural land valuation schedules to the department,

more discretion in its deliberations in determining agricultural land valuation schedules.

The bill allows the advisory committee to recommend a different capitalization rate than the statutory 6.4% in determining agricultural land values. In addition, the bill also amends the parameters used to determine the per-acre net income of agricultural land in each land use and production category. Changing the capitalization rate and the parameters of per-acre net income will impact the department's calculations used to determine productive capacity of agricultural land.

Effective Date: October 1, 2001

SB 325 Short Title: **Revise rural electric and telephone coop laws**
Primary Sponsor: Dale Mahlum

This bill addresses certain property purchased by Flathead Electric Coop (FEC) from PacificCorp. This property is currently classified as centrally assessed property (class 9), with a taxable valuation rate of 12%; other FEC property is classified as class 5, with a taxable valuation rate of 3%. The bill allows FEC to consolidate the new property into its holdings and allows the customers of the purchased property to become members of the cooperative. However, the newly acquired property will continue to be taxed at the class 9 rate of 12%, and not at the class 5 rate of 3%.

The bill also establishes the voting rights of the members of a cooperative.

Effective Date: This act is effective on passage and approval.

SB 346 Short Title: **Property tax penalty and interest amnesty**
Primary Sponsor: John Cobb

The bill provides an amnesty from property tax penalty and interest for property qualifying under the low-income property tax assistance provisions of 15-6-134(1)(c), and 15-6-191 when taxes are paid within 20 calendar days of their due date.

Effective Date: Effective on passage and approval
Applicability Date: Eligible property tax payments made after March 1, 2001

SB 501 Short Title: **Clarify and revise property taxation**
Primary Sponsor: Lorents Grosfield

SB501 revises the calculation of “newly taxable value” with respect to sales of centrally assessed property. For sales of centrally assessed property where the property transferred has a value of \$1 million or more, any increase in valuation that arises purely as a consequence of the sale can no longer be included and counted in determining the amount of newly taxable value. Only increases in value that occur because of an actual increase in new construction can now be counted in determining newly taxable value.

In addition, the bill requires a recalculation of the amount of tax year 2000 newly taxable property for those jurisdictions where the sale of certain centrally assessed property in tax year 1999 resulted in an overstatement of the amount of newly taxable value under the concept adopted in this bill. This recalculation will result in the department re-certifying the taxable value of newly taxable property in these jurisdictions.

Although tax bills will not be recalculated, local governments will use the re-certified taxable value of newly taxable property to determine their fiscal year 2001 tax base and maximum allowable mill levy under the provisions of 15-10-420, MCA. If the recalculated tax base is more than 101% of the tax base actually used in fiscal year 2001, then the proposal will require the jurisdiction to recalculate the maximum mill levy for fiscal year 2001, and use this as the basis for determining the maximum mill levy in fiscal year 2002.

Effective Date: Effective on passage and approval
Applicability Date: Applies retroactively to property tax years
 beginning after December 31, 2000
Termination Date: January 1, 2002

SB 506 Short Title: **Encourage alternative energy and electrical energy
 generation**
Primary Sponsor: John Cobb

SB506 amends many sections of state law to promote the development of an alternative energy industry in Montana. Provisions of the bill include:

- A. Creates the “alternative energy revolving loan account”, consisting of money deposited in the account from air quality penalties received under 75-2-401 and 75-2-413. Funds are to

be used for a program administered by DEQ that makes loans to individuals and small business for the purpose of building alternative energy systems, to generate electricity for their own use, and for net metering systems.

- B. Provides local governments with the authority to create special improvement districts for the purchase, installation, maintenance, and management of alternative energy production facilities.
- C. Provides that electric generation facilities powered by an alternative renewable energy source and built after July 1, 2001 are exempt from taxation. (Facilities with a capacity of less than 1 megawatt are exempt for 5 years.)
- D. Includes firms that engage in the production of electrical energy in an amount of 1 megawatt or more by means of an alternative renewable energy source in the eligibility requirements for receiving the existing local option property tax abatement (15-24-1401,1402).
- E. Provides for the following changes related to corporation license tax and individual income tax credits:
 - Includes firms engaged in the production of energy by means of an alternative renewable energy source in the eligibility requirements of the existing corporation license tax expanded industry credit.
 - Increases the credit against individual income taxes for *energy-conserving expenditures* from 5% of the expenditure up to \$150 for a residential building (\$300 for a nonresidential building), to 25% of the expenditure up to \$500. Whereas previously there was no carryforward for this credit, SB506 now allows the credit to be carried forward for 7 years.
 - Increases the credit against individual income tax for investments in a residential *geothermal system* from \$250 per year for 4 years, to \$1,500 with carryforward of any unused credit for 7 years.
 - Increases the maximum credit against individual income tax for investments in a residential *energy system using a recognized nonfossil form of energy generation* from 10% of the first \$1,000 and 5% of the next \$3,000 to installation cost, not to exceed \$500.
 - Increases the maximum credit against individual income tax for investments in a *low emission wood or biomass*

combustion device from 20% of the first \$1,000 and 10% of the next \$3,000 to installation cost, not to exceed \$500.

- Amends statutes providing for a tax credit for development of *wind* energy to encompass all forms of *alternative energy* or a *net metering system*.
- Current state statutes limit the combined amount of federal and state tax credits that may be claimed for an investment in a wind energy system to 60% of eligible costs. SB506 exempts from this limitation investments in a commercial system located on state trust land provided the owner signs a lease agreement to make annual lease payments to the permanent school trust, and offers contracts with a duration of at least 5 years to sell at least 33% of output at the cost of production plus a rate of return not to exceed 12%.

F. Exempts from the wholesale energy transactions tax (WET) electricity produced by wind turbines erected on state land for which annual lease payments are made to the permanent school trust fund.

G. Makes business enterprises that produce energy using an alternative renewable energy source eligible to participate in a variety of state development programs including:

- the Microbusiness Development Act
- the Job Investment Act,
- the Montana Agricultural Loan Authority Act
- local government industrial development projects, and
- the Montana Capital Company Act.

Effective Date: The revolving loan program in Sections 1 - 3, 21, and 22 is effective on passage and approval. Other provisions are effective July 1, 2001.

Applicability Date: The property tax exemption and income tax and corporation license tax credits in this bill apply to tax years beginning after December 31, 2001.

SB 508 Short Title: **Encourage electrical generation in Montana - property tax incentive**

Primary Sponsor: Mack Cole

SB508 implements a property tax exemption for electricity generation facilities and related delivery facilities, and provides for maximum

local impact fees to offset property tax reductions. The exemption would be available for new coal, oil- or gas-fired turbine, or hydroelectric plants producing 20 average megawatts of power or more constructed before January 1, 2006. The owner of the facility must offer half of the facility's net output at a cost-based rate, including a rate of return not to exceed 12%, for 20 years. Coal and hydro plants would be exempt for 10 years from the date construction commences; oil- and gas-fired turbines would be exempt for 5 years.

Property tax rollback provisions allow recapture of back-year property taxes for facilities that fail to meet statutory requirements throughout the exemption period.

Facilities provided the exemption would be subject to local impact fees of up to 0.75% of the total construction cost for the first two years of the exemption. Oil- and gas-fired turbines would be subject to local impact fees of up to 0.1% of total construction costs for the final 3 years of the exemption period. Coal and hydro facilities would be subject to local impact fees of up to 0.1% for subsequent 4 years; and up to 0.08% for the final 4 years of the exemption period.

Impact fees are to be collected by the local government where the facility is located. If the facility is in more than one jurisdiction, impact fees are to be collected by the county or counties where they are located, and the local governments may enter into an interlocal agreement regarding distribution of the revenue from the fee.

The department is required to appraise exempt facilities every year and included their value for county classification purposes.

Effective Date: Effective on passage and approval.

Corporation License & Individual Income Tax

HB143 Short Title: **Revise income tax laws for pass-through entities**
Primary Sponsor: Roger Somerville

HB143 generally revises and clarifies the reporting of income for pass-through entities. Among other things, the bill clarifies or provides definitions for the following terms: “corporation”, “disregarded entity”, “internal revenue code”, “limited liability company”, “limited liability partnership”, “Montana source income”, “nonresident”, “partner”, “partnership”, “pass-through entity”, and “S. corporation”, and “small business corporation”.

New sections of law provide that partners, shareholders, and other owners of partnerships, an S. corporation, or a disregarded entity that have Montana source income are required to include their distributive shares of income when filing a Montana tax return. The bill also provides that a partnership or S. corporation may elect to file a *composite return* and pay a composite tax on behalf of all participants, and perform other duties and responsibilities in relation to the filing of composite returns.

The bill clarifies that partnerships, S. corporations, and disregarded entities are not subject to either individual or corporation income taxes, but that the partners, shareholders and other owners of organizations are subject to tax to the extent that they receive a distribution of Montana source income. Also, any of these entities receiving Montana source income are required to file an information return with the department providing the names of owners, each owner’s distributive share of Montana source income, and other information required by the department. The bill provides for penalties for failure to file these informational returns, with exceptions provided for in certain circumstances.

The bill further provides that a pass-through entity required to file an information return that has a nonresident owner shall either file a composite return with respect to the nonresident owner, or file an agreement of the nonresident owner to file a Montana return and pay all taxes due on Montana income of the pass-through entity. Pass through entities not meeting certain requirements are required to remit payment of tax equal to the highest marginal income tax rate currently in effect multiplied by each nonresident’s distributive share of Montana income. These pass-through entities are allowed recovery of any tax thus paid from the individual owners of the entity.

The bill also clarifies the calculation of tax for a nonresident filer, and provides for a credit against tax for a resident filer for the resident's *pro rata* share of any income tax paid to another state by an S. corporation of which the resident is a shareholder.

The bill provides that shell or passive pass-through entities do not qualify for the charitable endowment credit.

Finally, the bill provides that the department is to review the taxation of pass-through entities and the method of taxation of these entities in other states, and shall consider recommendations regarding the method that Montana uses. The department is to report to the Revenue and Transportation interim committee as least once each year on these findings and recommendations.

Effective Dates: Generally, the act is effective October 1, 2001. Clarifying the tax credit for a resident's *pro rata* share of any income tax paid another state or country by an S corporation is effective on passage and approval; and the section providing for taxpayer consent or withholding is effective January 1, 2003.

Applicability Dates: Generally, this act applies to tax years beginning after December 31, 2001. Clarifying the tax credit for a resident's *pro rata* share of any income tax paid another state or country by an S corporation Section applies retroactively to tax years beginning after December 31, 2000; and the section providing for taxpayer consent or withholding applies to tax years beginning after December 31, 2002.

Termination Date: Section 5, providing for notification of consent or withholding terminates December 31, 2002.

HB377 Short Title: **Revise qualified endowment tax credit – 6-year Extension**

Primary Sponsor: Roger Somerville

HB434 (1997) instituted the tax credit for "planned gifts" by individuals and other gifts by corporations to qualified endowments. That legislation provided that the credit would terminate December 31, 2001.

HB377 extends the termination date for the credit to December 31, 2007. The credit for individual income tax is reduced from 50% of the

value of the planned gift up to \$10,000 to 40% of the value of the gift up to \$10,000. The credit for corporation license tax purposes is reduced from 50% of the value of any charitable gift to 20% of the value, with the maximum credit also retained at \$10,000. The bill also provides that charitable contributions using certain types of gifting techniques authorized by federal law will not be considered a "planned gift" unless certain stipulations are met. (See 15-30-165(3) for these stipulations.)

Effective Date: This act generally is effective October 1, 2001
Applicability Date: This act applies to tax years beginning after December 31, 2001, and to contributions to qualified endowments made after December 31, 2001

HB619 Short Title: **Tax credit for preserving historically significant property**

Primary Sponsor: Christopher Harris

Current law provides for an individual income tax credit for qualified rehabilitation expenditures with respect to any certified historic building located in Montana equal to 25% of the federal credit allowed.

HB619 provides for a credit against individual income taxes equal to 20% of the cost of creating a conservation easement, and any decrease in value of a historically significant property, including buildings and structures, that results from a contract that places a conservation easement on the property. To qualify for the credit, the property, the property owner, and the conservation easement holder must all qualify based on stipulations provided at 15-30-180(2).

Furthermore, taxpayers would be allowed *additional credit* equal to 20% of any amount spent by the owner of the historical property for the protection and preservation of the property, if the preservation efforts are approved as reasonable and necessary by the conservation easement holder. This portion of the credit cannot exceed \$25,000 in any year.

The total maximum credit allowed for each historically significant property cannot exceed \$150,000. The credit is nonrefundable, but any excess credit may be carried forward for six years.

Effective Date: January 1, 2002
Termination Date: December 31, 2011

HB 623 Short Title: **Tax credit for business providing day care facility**
Primary Sponsor: Jeff Mangan

This bill provides for a non-refundable credit against corporate license tax or individual income tax for employers' expenditures on day care facilities that are acquired, constructed, reconstructed, renovated, or otherwise improved and placed in operation between January 1, 2001 and December 31, 2005. The tax credit is limited to the lesser of \$2,500 multiplied by the number of dependents the facility is designed to accommodate, 15% of the cost of the facility or improvement, or \$50,000. One-tenth of the new credit may be claimed in each of ten tax years, and the credit may be carried forward within that ten-year period.

This bill also expands the existing credit against personal income tax for dependent care assistance to include expenditures for information and referral services.

In addition, this bill expands the existing credit against corporate license tax for dependent care assistance to include expenditures for information and referral services, and increases the limits on the existing credit against corporate license tax from the lesser of 20% of the amount paid, or \$1,250, to the lesser of 25% of the amount paid, or \$1,575.

Effective Date: Effective on passage and approval
Applicability Date: Applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2000

HB643 Short Title: **Tax exemption for electricity generated on reservation**
Primary Sponsor: Carol C Juneau

Under current law, an individual, corporation, partnership, or small business corporation that invests \$5,000 or more in commercial wind energy generation property is allowed a credit against individual or corporate income tax equal to 35% of the eligible costs. Under current law the state credit may be carried forward 7 years. Eligible costs include only those expenditures that qualify under section 38, I.R.C. of 1954 as amended, associated with the purchase, installation, or upgrading of generating equipment, safety devices and storage components; and transmission lines needed to connect to a purchaser or other transmission lines. Current law also provides that whenever any federal credit is allowed the state

credit must be reduced by the amount of the federal credits so that the effective credit does not exceed 60% of the eligible costs.

HB643 addresses commercial wind energy investments 5 megawatts or larger in size:

- 1) that are located within the exterior boundaries of a Montana Indian reservation,
- 2) for which the taxpayer has signed an employment agreement with the tribal government regarding the training and employment of tribal members in the construction, operation, and maintenance of the commercial system, and
- 3) that offers contracts with a duration of at least 5 years to sell at least 33% of electrical energy produced at cost (plus a reasonable rate of return) to customers for use within Montana.

For these investments, the bill eliminates the combined federal/state effective credit limitation of 60% of eligible costs, and extends the carryforward period to 15 years for taxpayers investing under the above noted circumstances.

The bill also provides that electricity produced by an electric energy generation facility as defined in 90-5-101(3) constructed after passage and approval of the bill within the boundaries of a Montana Indian reservation for delivery outside the state is exempt from the wholesale energy transaction (WET) tax.

Finally, the bill includes electric energy generation facility in the definition of "project" under economic development bond laws to allow these facilities to be financed under these laws.

Effective dates: Sections redefining "project" for economic development bond laws, and requiring the Secretary of State to send a copy of the act to tribal governments are effective on passage and approval. Other provisions of the bill are effective January 1, 2002.

SB51 Short Title: **Public employee qualified health care expense accounts**

Primary Sponsor: Don Hargrove

See section on Bills Affecting Revenue Administration for description.

SB 92 Short Title: **Extend recycling tax credit -- revise credit**
Primary Sponsor: Mike Halligan

This bill extends the termination date of the recycling tax credits and deductions in 15-32-601 through 15-32-610 from December 31, 2001 to December 31, 2005. It also removes the provisions allowing the credit for property used to treat soil contaminated with hazardous waste.

Effective Date: October 1, 2001
Applicability Date: Applies to tax years beginning after December 31, 2001

SB245 Short Title: **Montana farm and ranch risk management account**
Primary Sponsor: Ric Holden

SB245 may be cited as the *“Montana Farm and Ranch Risk Management Act”*.

SB245 provides that an individual or a “family farm corporation” may create only one Montana farm and ranch risk management account, the trustee of which must be a financial institution. Annual deposits to the account, which cannot exceed the lesser of 20% of net income attributable to “agricultural business” included in federal adjusted gross income, or \$20,000, may be excluded from adjusted gross income for state individual income tax purposes. For any given tax year, a deposit to an account may be made during the tax year or within 3 ½ months following the close of the tax year.

Any portion of a deposit distributed within 6 months of the date deposited constitutes income for the year for which the exclusion was taken, and the taxpayer must file a return or amended return as necessary to report the income in the appropriate year. Account trustees are required to report if a portion of a deposit is distributed within 6 months of the date of deposit.

Distributions from the account are taxable. In addition, amounts not distributed within 5 years of initial deposit are considered distributions of taxable income, and a penalty equal to 10% of the tax due on the distributed amount is added to the tax as a penalty.

Effective Date: October 1, 2001
Applicability Date: Applies to tax years beginning after December 31, 2001

SB258 Short Title: **Revise education savings account laws**
Primary Sponsor: John C. Bohlinger

SB258 generally revises the laws pertaining to family education savings accounts by:

- Excluding from income any “earnings” on an account withdrawn to pay qualified higher education expenses (currently only contributions withdrawn are nontaxable)
- Allowing spouses to split contributions to an account for purposes of determining the maximum \$3,000 deductible contribution per person
- Expanding the definition of “qualified higher educational expenses” to include certain room and board expenses (currently only tuition and fees qualify)
- Expanding the class of eligible institutions to include certain proprietary and out-of-state vocational schools
- Replacing the current requirement to include nonqualified withdrawals as income, with a recapture tax applied to nonqualified withdrawals and imposed at the maximum tax rate allowed by law; and imposing the recapture tax on withdrawals made within 3 years of the date on which an account was opened.

Effective date: Passage and approval

Applicability date: Applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2000

SB350 Short Title: **Income tax credit for contributions to housing trust fund**

Primary Sponsor: Jon Ellingson

SB350 provides for a nonrefundable tax credit against individual income and corporation license tax for contributions to the affordable housing revolving loan account established in 90-6-133. For individuals, the credit is equal to 20% of the amount of the donation, up to a maximum of \$10,000; for corporations the credit is equal to 10% of the amount donated up to \$10,000. The credit may not be carried forward or carried back. Also, the credit may not be claimed if the donation is taken as a deduction for tax purposes.

The bill also provides for allocation of any credit claimed by a small business corporation or partnership among the shareholders or partners of the entity.

Finally, the bill provides that for the purposes of the planned gift credit for donations to a qualified charitable endowment, the affordable housing revolving loan account is considered to be a “qualified endowment”.

Effective date: Passage and approval
Applicability date: Applies retroactively, within the meaning of 1-2-109, to tax years beginning after December 31, 2000

SB 506 Short Title: **Encourage alternative energy and electrical energy generation**

Primary Sponsor: John Cobb

SB506 amends many sections of state law to promote the development of an alternative energy industry in Montana. Provisions of the bill include:

- A. Creates the “alternative energy revolving loan account”, consisting of money deposited in the account from air quality penalties received under 75-2-401 and 75-2-413. Funds are to be used for a program administered by DEQ that makes loans to individuals and small business for the purpose of building alternative energy systems, to generate electricity for their own use, and for net metering systems.
- B. Provides local governments with the authority to create special improvement districts for the purchase, installation, maintenance, and management of alternative energy production facilities.
- C. Provides that electric generation facilities powered by an alternative renewable energy source and built after July 1, 2001 are exempt from taxation. (Facilities with a capacity of less than 1 megawatt are exempt for 5 years.)
- D. Includes firms that engage in the production of electrical energy in an amount of 1 megawatt or more by means of an alternative renewable energy source in the eligibility requirements for receiving the existing local option property tax abatement (15-24-1401,1402).
- E. Provides for the following changes related to corporation license tax and individual income tax credits:

- Includes firms engaged in the production of energy by means of an alternative renewable energy source in the eligibility requirements of the existing corporation license tax expanded industry credit.
 - Increases the credit against individual income taxes for *energy-conserving expenditures* from 5% of the expenditure up to \$150 for a residential building (\$300 for a nonresidential building), to 25% of the expenditure up to \$500. Whereas previously there was no carryforward for this credit, SB506 now allows the credit to be carried forward for 7 years.
 - Increases the credit against individual income tax for investments in a residential *geothermal system* from \$250 per year for 4 years, to \$1,500 with carryforward of any unused credit for 7 years.
 - Increases the maximum credit against individual income tax for investments in a residential *energy system using a recognized nonfossil form of energy generation* from 10% of the first \$1,000 and 5% of the next \$3,000 to installation cost, not to exceed \$500.
 - Increases the maximum credit against individual income tax for investments in a *low emission wood or biomass combustion device* from 20% of the first \$1,000 and 10% of the next \$3,000 to installation cost, not to exceed \$500.
 - Amends statutes providing for a tax credit for development of *wind* energy to encompass all forms of *alternative energy* or a *net metering system*.
 - Current state statutes limit the combined amount of federal and state tax credits that may be claimed for an investment in a wind energy system to 60% of eligible costs. SB506 exempts from this limitation investments in a commercial system located on state trust land provided the owner signs a lease agreement to make annual lease payments to the permanent school trust, and offers contracts with a duration of at least 5 years to sell at least 33% of output at the cost of production plus a rate of return not to exceed 12%.
- F. Exempts from the wholesale energy transactions tax (WET) electricity produced by wind turbines erected on state land for which annual lease payments are made to the permanent school trust fund.

G. Makes business enterprises that produce energy using an alternative renewable energy source eligible to participate in a variety of state development programs including:

- the Microbusiness Development Act
- the Job Investment Act,
- the Montana Agricultural Loan Authority Act
- local government industrial development projects, and
- the Montana Capital Company Act.

Effective Date: The revolving loan program in Sections 1 - 3, 21, and 22 is effective on passage and approval. Other provisions are effective July 1, 2001.

Applicability Date: The property tax exemption and income tax and corporation license tax credits in this bill apply to tax years beginning after December 31, 2001.

Natural Resource Taxes

HB 40 Short Title: **Retain coal tax for treasure state endowment regional water system funding**

Primary Sponsor: John Witt

The treasure state endowment regional water system fund (TSERWSF) is a sub-fund of the permanent coal tax trust fund. Under current law, the TSERWSF terminates June 30, 2013. Until then, 12.5% of coal severance tax collections are deposited in the TSERWSF and interest earnings are available to finance regional water systems. At termination, the TSERWSF balance again becomes part of the permanent fund. This bill extends the termination date for the TSERWSF and for payment of interest from the TSERWSF to the regional water system program to June 30, 2016. It leaves the termination date for payment of coal severance tax funds into the TSERWSF unchanged.

Effective Date: June 30, 2013

HB226 Short Title: **Allocate portion of federal mineral royalty funds to counties**

Primary Sponsor: Keith Bales

Currently, federal mineral royalties paid to the state are deposited 100% in the state general fund. HB226 would provide for a partial allocation of these monies to the counties in which the mineral production occurs.

HB226 provides that federal mineral royalties received in fiscal year 2002 in excess of \$21,756,000 will be distributed to the counties in which the mineral production occurs; in fiscal year 2003, royalties in excess of \$20,474,000 will be distributed to the counties in which the mineral production occurs. Because these dollar amounts reflect the official HJR2 revenue estimate for federal mineral royalties, there will be an impact on the general fund in the 2003 biennium only to the extent that receipts of federal mineral royalties exceed the revenue estimates.

Beginning with fiscal 2004, 12.5% of all federal mineral royalties paid to the state will be distributed to counties; and beginning with fiscal 2005, 25% of all federal mineral royalties paid to the state will be distributed to the counties. In each year, the allocation across counties is based on each county's share of revenue generated

within the county to the total amount of federal mineral royalties paid the state.

Effective Date: January 1, 2002
Applicability Date: Applies to royalties received after December 31, 2001

HB 444 Short Title: **Reauthorize natural resource damage program**
Primary Sponsor: Roger Somerville

This bill authorizes the Department of Justice to borrow \$990,000 from the coal severance tax permanent fund to finance natural resource damage assessment and litigation. The loan is to be repaid from funds recovered from the litigation. Terms of the loan are to be spelled out in a contract between the Department of Justice and the Board of Investments. The loan would be repaid once funds are recovered from the litigation. If the loan were not repaid within the biennium, interest earnings for the general fund would be reduced by \$17,573 in fiscal 2002 and \$52,718 in fiscal 2003.

Effective Date: Section 2 authorizing the loan contract is effective on passage and approval. Section 1 making the loan is effective July 1, 2001

HB 572 Short Title: **Adjust and redistribute money derived from natural gas from coal beds**
Primary Sponsor: Keith Bales

This bill creates a *coal bed methane protection program* to be administered by conservation districts. This program would compensate the owners of land or water rights that are adversely impacted by coal bed methane development and who are not able to obtain compensation from methane developers. The program would be funded by an annual allocation of \$400,000 from oil and gas tax collections.

This bill would become effective at the beginning of the fiscal year after the balance in the Resource Indemnity Trust reaches \$100 million. This is projected to occur during fiscal 2002. The allocation from oil and gas tax would terminate at the end of fiscal 2011.

This bill and HB 642 both correct a technical wording problem with the allocation of oil and gas tax in 15-36-324. This bill has coordinating language that voids the corresponding section of HB

642. However, the section of this bill which makes the correction sunsets at the end of fiscal 2011. This will restore the current flawed language beginning with fiscal 2012.

Effective Date: This bill is effective July 1 of the year after the governor certifies that the balance in the Resource Indemnity Trust has reached \$100 million.

HB 610 Short Title: **Reduce allocation to TSEP - increase allocation to permanent fund**
Primary Sponsor: Dave Kasten

Under current law, 37.5% of coal severance tax collections are deposited in the Treasure State Endowment Fund and 0% is deposited in the coal severance tax permanent fund. Beginning fiscal 2004, this bill would change the allocation to allocate 25% to the Treasure State Endowment Fund and 12.5% to the coal severance tax permanent fund.

Effective Date: July 1, 2003

HB 642 Short Title: **Revise distribution of oil and gas production taxes**
Primary Sponsor: Bob Story

This bill corrects a technical wording problem with the allocation of oil and gas tax revenue. The intent of current law was to combine the revenue from the oil and gas tax and the resource indemnity tax and apply one allocation formula to the combined revenue stream. This allocation formula makes a fixed allocation to the groundwater assessment account and percentage allocations to other accounts. As written, current law allocates funds from the two taxes separately and thus makes the allocation to the groundwater assessment account twice. This bill eliminates the allocation to the groundwater assessment account from the oil and gas tax.

HB 572 contains coordinating language that voids the section of this bill that applies after the Resource Indemnity Trust balance reaches \$100 million.

Effective Date: Effective on passage and approval.
Section 2 provides temporary language that is replaced by Section 3 effective July 1 of the year following the year when the governor

certifies that the balance of the Resource Indemnity Trust has reached \$100 million.
Applicability Date: This bill applies retroactively to distributions made after June 30, 2000.

SB 134 Short Title: **Reduce coal severance tax for sales to new in-state generation plants**
Primary Sponsor: Dave Kasten

This bill taxes coal at one third the regular rate if it is used to generate electricity at a new power plant constructed in the years 2002 through 2007 and half of the output is offered in state at a price set by the Public Service Commission.

Effective Date: January 1, 2002
Applicability Date: Applies to coal produced after December 31, 2002

SB240 Short Title: **Remove termination for alternative oil recovery rates**
Primary Sponsor: Walter McNutt

Under current law, the reduced tax rates for incremental production from new or expanded secondary or tertiary production apply only to wells developed before January 1, 2002. This bill eliminates this sunset provision.

Effective Date: Effective on passage and approval

SB 519 Short Title: **Revise small stripper oil well tax trigger**
Primary Sponsor: Glenn Roush

Under current law, the tax rate on working interest production from oil wells that produce three barrels of oil per day or less is 0.5% in any quarter when the price of West Texas Intermediate crude oil is less than \$30 per barrel. This bill would make the lower rates apply when the price of West Texas Intermediate is less than \$38 per barrel.

Effective Date: Effective on passage and approval
Applicability Date: Applies retroactively to production occurring on or after January 1, 2001

Motor Vehicle Taxes

HB247 Short Title: **Phase-in reduction of fees in lieu of tax for heavy trucks**

Primary Sponsor: Dave Lewis

Prior to HB247 heavy trucks paid a fee in lieu of tax on heavy vehicles based on the age and manufacturer's rated capacity of the vehicle. Revenue from these fees was distributed to state and local governments on the basis of relative mill levies.

HB247 reduces these fees by 50% in three equal installments over a 3-year period beginning January 1, 2003. HB247 also provided for a reimbursement to local governments for any reduction in revenue arising as a consequence of the fee reductions. However, HB124 (2001) changed the distribution of these fees entirely to the state general fund, and provided local governments with an entitlement share payment based on all fiscal year 2001 revenues transferred to the general fund, including motor vehicle fees. Consequently, local governments will not experience a reduction in revenue from the flat fees on heavy trucks below the amount received in fiscal 2001. However, revenue to the general fund will be reduced each year as a consequence of reducing these fees.

Effective date: The fee reductions are effective January 1, 2003; January 1, 2004; and January 1, 2005

SB53 Short Title: **Disabled vet. vehicle reg. reduced fee for certain vehicles other than car**

Primary Sponsor: Glenn Roush

This bill broadens the types of vehicles for which a 100% disabled veteran is eligible to pay \$5 in lieu of all other fees and taxes under Title 61, Chapter 3. Additionally, this bill limits the number of special license plates for disabled veterans under 61-3-332(10)(c)(i)(A) or 61-3-426(2) to one vehicle per disabled veteran.

Effective date: Passage and approval

Applicability date: Applies to an original or renewal registration of a motor vehicle pursuant to 61-3-332(10)(c) after the effective date of this act.

SB168 Short Title: **Increase junk vehicle fees**
Primary Sponsor: Emily Stonington

This bill increases the junk vehicle titling fee from \$1.50 to \$2.00 and the junk vehicle registration fee from \$0.50 to \$1.00. It also requires that \$0.15 of the \$1.00 junk vehicle registration fee must be used for reimbursing the contracted removal of abandoned vehicles during the calendar year following the calendar year in which the fee was paid. Any portion of the \$0.15 not used for this purpose during the calendar year following its payment must be used for the control, collection, recycling, and disposal of junk vehicles and component parts, and for the removal of abandoned vehicles, as provided in 75-10-532, MCA.

Additionally, this bill increases the motor vehicle wrecking facility and motor vehicle graveyard license fee from \$50 to \$100.

Effective date: January 1, 2002

SB448 Short Title: **Funding for transportation for senior citizens and persons with disabilities**
Primary Sponsor: Chris Christiaens

Beginning January 1, 2002 SB448 provides for a fee of \$0.25 to be paid at the time of registration or reregistration of all vehicles, excluding trailers and semitrailers registered in other jurisdictions and registered through a proportional registration agreement. Revenue from this fee must be deposited in the state special revenue fund to the credit of the *senior citizens and persons with disabilities transportation services account* provided for in Section 1 of the bill.

Effective date: Passage and approval

Applicability date: Applies to registrations of motor vehicles occurring after December 31, 2001

Liquor & Tobacco Tax

HB308 Short Title: **Reduce 5 years to 3 years for transfer of liquor license between quota areas**

Primary Sponsor: Cindy Younkin

Previously, when an all-beverages liquor license was transferred between quota areas it could not be subsequently transferred, mortgaged, or pledged as security for a period of 5 years. This bill reduces that time period to 3 years.

Effective date: Passage and approval

HB348 Short Title: **Revise liquor store laws - percentage of liquor store commission**

Primary Sponsor: Jim Shockley

Under current law, agency liquor stores receive commissions paid by the state. Generally, stores in communities with a population of less than 3,000 receive a commission rate of 10%; stores in communities with a population of 3,000 or more receive a commission rate established through a competitive bidding process. Under certain circumstances these commission rates may be adjusted per the requirements established in 16-2-101(6) and (8), MCA.

Under this bill, agency liquor store commission rates are increased above current law commission rates based upon the annual volume of sales by agency liquor stores. Agency liquor stores with a volume of sales less than \$500,000 would receive an additional commission of 1.25% beginning July 1, 2002; 1.25% beginning July 1, 2003; and 1.5% beginning July 1, 2004. Agency liquor stores with a volume of sales greater than or equal to \$500,000 would receive an additional commission of 0.125% beginning July 1, 2002; 0.5% beginning July 1, 2003; and 0.875% beginning July 1, 2004.

Effective date: Passage and approval

Applicability date: Applies to commissions beginning in calendar year 2000

HB369 Short Title: **Maintain minimum cigarette pack size in tobacco settlement**

Primary Sponsor: Jesse Laslovich

This bill prohibits the manufacture or sale of cigarettes in packs of less than 20, or rolling tobacco in packages weighing less than 0.6 ounces, net weight. Additionally, this bill provides for a monetary fine and a suspension of a tobacco products license for not complying with the new regulations.

Effective date: Passage and approval

HB493 Short Title: **Licensure and distribution by Montana wineries**

Primary Sponsor: Nancy Fritz

Under current law, wineries pay a \$25 annual registration fee as provided for in (ARM, 42.13.401). Under this bill, wine, other than for personal consumption in conformity with certain federal exemptions, may be manufactured within the state only by a licensed domestic winery. A fee of \$400, which constitutes the first annual license fee, must accompany an application for a domestic winery license. The bill provides for an annual renewal license fee of \$400 for each domestic winery producing more than 25,000 gallons of wine per year, and a fee of \$200 for those producing 25,000 or less gallons of wine per year.

Effective date: Passage and approval

HB596 Short Title: **Private golf course beer and wine license**

Primary Sponsor: Rod Bitney

Under current law, *publicly* owned golf courses may receive a retail beer and wine license regardless of the number of beer and wine licenses already issued within the beer and wine license quota area in which the golf course is situated.

Under this bill, *private* golf courses, with exceptions, would be able to apply for a retail beer and wine license regardless of the number of beer and wine licenses already issued within the beer and wine license quota area in which the golf course is situated.

Effective date: Passage and approval

SB59 Short Title: **Revise special liquor permit law to include veteran and fraternal organizations**

Primary Sponsor: Linda Nelson

This bill allows nationally chartered veterans' organizations, or a lodge of a recognized national fraternal organization, to obtain special permits to sell beer and table wine, limited to three events a year.

Effective date: Passage and approval

SB129 Short Title: **Implement tobacco settlement trust fund**

Primary Sponsor: Dale Berry

This bill implements the Montana tobacco settlement trust fund authorized by Article XII, Section 4, of the Montana Constitution. There are three new sections in law under this bill. The first section discusses the purpose of the bill; which is to establish the Montana tobacco settlement trust fund, and to provide a permanent source of revenue to fund the costs that the state incurs in programs for tobacco disease prevention; and providing benefits, services, or coverage of health care needs.

The second section provides for definitions for sections 1 through 3 of this bill.

The third section requires that nine-tenths of the interest and income derived from the trust on or after January 1, 2001, must be deposited in the state special revenue fund. These funds are subject to Legislative appropriation for tobacco disease prevention and for state programs providing benefits, services, or coverage of health care needs. The bill further requires that one-tenth of the trust interest and income be retained in the trust. Appropriated funds may not be used to replace state or federal money used to fund programs for tobacco disease prevention or state programs in existence on December 31, 1999, that provide benefits, services, or coverage of health care needs.

Effective date: Passage and approval

Applicability date: Applies retroactively to proceeds from the tobacco settlement occurring on or after January 1, 2001

SB142 Short Title: **Procedure when US becomes liquor license owner**
Primary Sponsor: Mike Sprague

This bill provides a procedure for the transfer of a liquor license owned by the United States. The bill states that when the right, title, and interest in a liquor license vests in the United States, the United States shall promptly give notice to the department of its interest and must have the license placed on nonuse status. The United States shall transfer ownership of the license to a qualified applicant within 200 days from the date on which it obtained an interest in the license. Upon receipt of an application to transfer the license, the department may, pursuant to 16-4-404, MCA, grant the applicant temporary authority to operate the license.

The department, upon a showing of good cause, may in its discretion extend the time for sale of the license for an additional period of up to 180 days.

Effective date: Passage and approval

SB317 Short Title: **Sliding scale taxes on beer produced by brewers**
Primary Sponsor: Alvin Ellis

Prior to SB317, a tax of \$4.30 per barrel of 31 gallons was imposed on each barrel of beer sold in Montana by a wholesaler. Under SB317, beer will be taxed based upon the number of barrels of beer produced annually by the brewer. Beer produced by breweries producing less than 5,000 barrels per year is taxed at \$1.30 per barrel; 5,000-10,000 barrels per year at \$2.30 per barrel; 10,000-20,000 barrels per year at \$3.30 per year, and over 20,000 barrels per year at \$4.30 per barrel.

Also prior to SB317 brewers paid an annual license fee of \$500. Under this bill, brewers producing 20,000 or fewer barrels of beer per year will pay an annual renewal fee of \$200.

Effective date: July 1, 2001
Applicability date: Applies to beer sold by a wholesaler on or after
 July 1, 2001

Inheritance & Miscellaneous Taxes

SB 192 Short Title: **Inheritance tax clean up legislation**
Primary Sponsor: Bob DePratu

This bill changes county filing requirements following the death of a person with a joint tenancy or life interest in real property. Current law requires filing the department's inheritance and estate tax form. This bill requires filing an acknowledged statement that the person has died.

Effective Date: Effective on passage and approval
Applicability Date: Applies retroactively to deaths occurring after
December 31, 2000.

SB 494 Short Title: **Revise retail telecommunications excise tax**
Primary Sponsor: John Cobb

This bill suspends the advanced telecommunications infrastructure tax credit for fiscal years 2002 and 2003. Credits that have already been granted for calendar 2001 would still be allowed, but no additional credits would be granted or taken until fiscal 2004. This bill also specifies that federal subscriber line charges and installation and activation charges are taxable, but only after June 30, 2001.

Effective Date: Effective on passage and approval
Applicability Date: Applies to federally authorized fees and
installation and activation charges after June
30, 2001.

Department of Revenue Sponsored Legislation

HB 37 Short Title: **Revise mill levy certification**
Primary Sponsor: John Witt

See Property Tax Section for description.

HB143 Short Title: **Revise income tax laws for pass-through entities**
Primary Sponsor: Roger Somerville

See section on Corporation License and Individual Income Tax for description.

HB377 Short Title: **Revise qualified endowment tax credit – 6-year Extension**
Primary Sponsor: Roger Somerville

See section on Corporation License and Individual Income Tax for description.

HB 381 Short Title: **Notice of classification and appraisal to single owner and create lien**
Primary Sponsor: Mark Noennig

This bill allows the department to send the notice of classification and appraisal to a single owner of a multiple, undivided interest in a parcel of land. The bill requires the department to furnish the names of the multiple, undivided interests in a parcel of land to the county treasurer. If the multiple, undivided interest parcel is located within the boundaries of an Indian reservation then a copy shall be provided to the tribal government.

This bill also provides for the ability of an owner of undivided interest in a property, that redeems a property tax lien on that property, to have a lien for the taxes paid on those interests not owned by the redeemer (the property as a whole).

Effective Date: Effective on passage and approval
Applicability Date: Applies retroactively, within the meaning of 1-2-109, to property tax years beginning after December 31, 2000

HB399 Short Title: **Revise deposit of liquor license fees - time for publication of license notice**

Primary Sponsor: Joe McKenney

Under current law, revenue collected from liquor license fees and permit fees is deposited in the state general fund. The Department of Revenue (DOR) receives an appropriation to fund the administrative expenses for liquor license administration and fee collection from the state general fund.

Under this bill, the revenue collected by the Department of Revenue from liquor license fees and permit fees is deposited into the Department of Revenue's Liquor Enterprise fund. The DOR will pay its administrative expenses for liquor license administration and fee collection from the proceeds of the collections of liquor license fees and permits, and pay for expenses associated with investigations pursuant to its agreement with the Department of Justice. The DOR will transfer the net amount to the state general fund.

Effective date: Passage and approval

Applicability date: Applies to fees collected after June 30, 2001

HB 579 Short Title: **Revise unemployment with respect to Tribes**

Primary Sponsor: Carol Juneau

This bill brings Montana into compliance with Federal statute regarding unemployment insurance accounts. The tribal unit may elect contributions to the unemployment insurance account or payments in lieu of contributions. The Indian tribe and its tribal units that choose to make contributions are liable for reimbursing the department for 50% of any extended benefits chargeable to the Indian tribe or its tribal units. An Indian tribe or its tribal units are liable for reimbursing the department for 100% of any extended benefits chargeable to the Indian tribe or its tribal units if they elect to make payments in lieu of contributions.

Failure to provide payment within 90 days of notification of delinquency will result in cancellation in the unemployment insurance program for the Indian tribe or tribal unit. Payment in full of the delinquent amount will reinstate the Indian tribe or its tribal unit in the program but they will be required to make contributions only to the unemployment insurance account.

This bill amends existing statute by including tribal units among those that are granted the ability to make elections regarding the payment in lieu of contributions.

Effective Date: This act is effective July 1, 2001, and applies retroactively to employment by recognized Indian tribes occurring on or after December 21, 2000

SB 44 Short Title: **Revise penalty accrual for warrant for distraint – uniform penalty and interest**
Primary Sponsor: Al Bishop

This bill allows the amount on a warrant for distraint to include accumulated penalties. This bill also provides for uniform penalty and interest, as provided for in 15-1-216, to be applied to delinquent withholding taxes, the public contractor's tax, and the retail telecommunications excise tax.

Effective Date: July 1, 2001

SB 45 Short Title: **Revise provisions for obtaining refund of taxes paid on migratory property**
Primary Sponsor: Alvin Ellis

This bill amends language in 15-16-613, MCA that allows the refund of taxes paid on migratory property by specifying that the taxes eligible for refund include only property taxes.

Previously, taxpayers filed their applications for refund with the county treasurer. Under the provisions of this bill, taxpayers will file the application for refund to the Board of County Commissioners. The bill also removes the January 31 deadline to file an application for refund.

Effective Date: Effective on passage and approval
Applicability Date: Applies retroactively to property tax years beginning after December 31, 2000

SB 46 Short Title: **Notice of levy efficacious as writ of execution**
Primary Sponsor: Al Bishop

This bill provides that when a notice of levy is issued it has the same force and effect as a writ of execution. This bill, which is contingent on the passage of HB 254, also allows wage garnishments to remain in effect for 120 days.

Effective Date: July 1, 2001

SB48 Short Title: **Clarify out-of-state direct shipment of alcoholic beverages to Montanans**
Primary Sponsor: Mike Sprague

This bill amends several sections of existing law to strengthen and clarify the state licensing system to control the transportation and importation of alcoholic beverages into Montana and the manufacture, sale, transportation, and distribution of alcoholic beverages within the state.

In addition, SB48 creates a beer, wine, and a beer and wine connoisseur's license, which enables a person to receive direct shipments of beer or wine from an out-of-state brewery or winery for the person's own consumption and not for resale. A registration fee in the amount of \$50 and an annual renewal fee of \$25 must accompany the application for a beer *or* wine connoisseur's license. A registration fee in the amount of \$100 and an annual renewal fee of \$50 must accompany the application for a beer *and* wine connoisseur's license. A licensee is required to pay all applicable excise taxes, as provided for in Title 16, Chapter 1, Part 4, imposed on the receipt of beer or wine during the previous six months.

Effective date: Sections amending current statutes are effective on passage and approval; sections providing for the new beer, wine, and beer and wine connoisseur's licenses are effective October 1, 2001

SB 78 Short Title: **One stop licensing fee revision**
Primary Sponsor: Don Hargrove

The bill clarifies the amount that the department may charge to other agencies participating in a streamlined registration and licensing plan. The department may require a transfer of funds from a

participating agency equal to no more than one-half of the total cost of processing and issuing a license.

Effective Date: This act is effective on passage and approval

SB142 Short Title: **Procedure when US becomes liquor license owner**
Primary Sponsor: Mike Sprague

See Liquor and Tobacco Tax section for description.

SB144 Short Title: **Transfer county collections report and other duties to Department of Revenue**
Primary Sponsor: Linda Nelson

See Bills Affecting Revenue Administration section for description.

SB 346 Short Title: **Property tax penalty and interest amnesty**
Primary Sponsor: John Cobb

See Property Tax section for description.

SB 356 Short Title **Attach board of review to department of revenue**
Primary Sponsor: Don Hargrove

See Bills Affecting Revenue Administration section for description.

Bills Affecting General Fund Revenue Flow

HB124 Short Title: **Revise local government funding (a.k.a. “The Big Bill”)**

Primary Sponsor: Bob Story

See section on Bills Affecting Revenue Administration for description.

HB519 Short Title: **Revise eligibility for video gambling machine tax credit**

Primary Sponsor: Gary Forrester

Prior to passage of HB519, a licensed owner of a video gambling machine was eligible for a tax credit for each video gambling machine for which a permit had been issued if:

- (1) the permit was active on *December 31, 2000*; and
- (2) the owner participates in the automated accounting and reporting system and incurs actual hardware or software costs prior to *December 31, 2003*.

HB519 changes the dates in (1) and (2) above to *December 31, 2001* and *December 31, 2005*, respectively.

Effective date: Passage and approval

Applicability date: Applies retroactively to video gambling machine permits that were active after December 31, 2000.

SB 176 Short Title: **Revise district court funding - state assumption**

Primary Sponsor: Walt McNutt

This bill provides for the assumption of most district court costs by the state. Costs and personnel associated with the Clerk of District Court, County Attorneys office and Public Defenders programs will not be assumed by the state. All other employees of the district court will become state employees on July 1, 2002. Court reporters will have the option of being a state employee or a contract employee. Employees affected by this bill will become employees of the Judicial Branch of state government.

Many of the fines and fees collected by the Clerk of District Court will be forwarded to the state general fund to finance district court

operations. The Clerk of District Court is responsible for forwarding the identified fines and fees to the state treasurer for deposit into the appropriate account. Local governments may continue to assess the mill levies previously used to fund district courts, but the levies must be used to fund the Clerk of District Court office.

The Supreme Court will adopt a personnel plan for all of those employees who will become state employees under this bill. A district court council, established in the bill, will adopt policies and procedures to administer this act.

This bill works in conjunction with HB 124 in establishing the funding sources to be used to support state assumption of district court operations.

Effective Date: Sections providing for the judicial branch personnel plan, the district court council, and instructions to the council are effective July 1, 2001 (FY2002). Sections providing for the state assumption of district court costs, and transfers of district court fee revenues to the state are effective July 1, 2002 (FY2003).

Applicability Date: The judiciary branch personnel plan adopted under section 1 applies to fiscal years beginning July 1, 2003 (FY2004).

SB 495 Short Title: **Revise state land laws to increase funding for trust**
Primary Sponsor: Fred Thomas

This bill authorizes a fairly convoluted financial transaction between the Board of Investments, the Land Board, and the Department of Natural Resources and Conservation (DNRC). The Board of Investments would make a loan to DNRC from the coal tax permanent trust fund and the loan proceeds would be deposited in the common school trust fund. The loan would be repaid over thirty years from mineral royalties on school trust lands. Each year, a principal payment would be made to the coal trust, and interest on the outstanding balance would be paid to the general fund. Any remaining mineral royalties and all other school trust interest and income would go into a new "guarantee account" for school equalization. This bill creates the guarantee account as a new special revenue account. HB 41 contains coordinating language that makes the guarantee account a subfund of the general fund.

Effective Date: July 1, 2001

SB 510 Short Title: **Encourage leasing of Crown Butte exchange
property for coal mining**
Primary Sponsor: Corey Stapleton

This bill directs that proceeds from coal leases on lands expected to be obtained from the federal government in the Crown Butte land exchange “must be used for the direct funding of education, including K-12 school districts, institutions of higher education, and vocational-technical education, unless otherwise provided in the transfer agreement.” This bill would not affect the Department of Revenue. It might increase revenue to the general fund in the future. However, it appears that the Montana Constitution and federal law will not allow the transfer agreement to be written in such a way that this bill would have any effect.

Effective Date: This act is effective on the date that the governor certifies that the federal government has transferred title to the Crown Butte exchange lands and certifies that the property is not restricted from being used as provided in this act

Bills Affecting Revenue Administration

HB 112 Short Title: **Establish policy governing e-mail as a public record
– Privacy in communications**

Primary Sponsor: John Brueggeman

This bill includes *electronic mail correspondence* as an official public record of state agencies when the electronic mail is used to conduct official business of the state. Under certain circumstances, electronic mail is considered a “public writing”. Agencies are required to retain electronic mail correspondence to the same extent that other public writings are retained and to make those writings available to the public upon request.

Effective Date: July 1, 2001

HB 124 Short Title: **Revise local government funding (a.k.a. “The Big
Bill”)**

Primary Sponsor: Bob Story

HB124 significantly restructures the funding relationship between the state and local governments by, among other things, providing for the following:

- Revenues from personal property tax reimbursements under SB184, motor vehicle and boat taxes and fees, video gambling, certain district court fees, the financial institutions tax, alcohol taxes, state aeronautics fees, and DNRC PILT payments, will no longer be split between state and local governments, but will instead flow entirely into the state general fund.
- The state will assume certain district court costs (SB176) and public assistance costs (SB339) currently paid by county governments.
- Local governments will receive a single “entitlement share payment” reflecting the above loss of revenue sources net of any costs savings from the state assuming district court and welfare expenses. The entitlement share payment will grow with the state’s economy based on a percentage of the four-year average growth in state personal income and gross state product. The annual growth amount in the entitlement share will be distributed across local governments half based on population, and half based on the base year entitlement share distribution.

- State agencies are provided with statutory reimbursements for motor vehicle and boat revenues deposited into the general fund based on actual vehicle counts and current law fee amounts.
- Removes all current law mill levy caps from all local government funds and programs, and provides for an overall cap on property taxes. The overall property tax cap allows property taxes to grow by half the rate of inflation, and provides local governments with added flexibility in levying the maximum number of mills. The bill also clarifies what constitutes “newly taxable property” for purposes of applying the mill levy calculated under the overall property tax cap.
- Provides local governments with added protection against unfunded state mandates.
- Provides block grants to school districts, and to countywide retirement and transportation districts, for revenue losses, and provides for growth in these block grants at the rate of 0.76% per year. Block grant funding to schools will continue if the interim school funding study does not provide an alternative to this funding mechanism.
- Provides for block grants to tax increment financing districts for revenue losses stemming from redirecting certain revenue sources to the state general fund.

Effective Dates: Generally the provisions of HB124 are effective July 1, 2001

Applicability Dates: Sections repealing distributions of the financial institutions tax and the video gambling tax to local governments apply retroactively to July 1, 2000 and April 1, 2000, respectively.

HB192 Short Title: **Allow payment of individual income taxes by credit Card**

Primary Sponsor: Doug Mood

This bill provides that taxpayers may make individual income tax payments by credit card, debit card, or other commercially acceptable means. Tax liability is not discharged until the department receives payment. The bill allows the department the option to charge a fee for notice of nonpayment from the credit card company, and provides that the taxpayer is responsible for any service fees charged by the credit card company.

Effective Dates: October 1, 2001

HB 234 Short Title: **Uniform electronic transactions act**
Primary Sponsor: Bob Lawson

This bill may be cited as the "Uniform Electronic Transaction Act". This bill provides for a uniform procedure to be applied in the conduct of "electronic business". Among other things, it provides definitions of terms used in conducting electronic business; establishes electronic signatures as legally binding signatures; establishes rules and guidelines pertaining to state government agencies' participation in electronic business; and provides rules and procedures for retention and notarization of electronic records.

Effective Date: July 1, 2002
Applicability Date: This act applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after July 1, 2001

HB 254 Short Title: **Continuing execution on garnishment until debt paid**
Primary Sponsor: Bob Davies

This bill extends the effective time frame of a writ of execution for garnishment of wages from 60 days to 120 days. It establishes that the writ is in effect for 120 days or until the judgment is satisfied, whichever occurs first; and that the levying officer may levy as often as necessary within the 120-day period until the judgment is satisfied. It also extends the time for return of the execution of the writ to 120 days.

Effective Date: July 1, 2001

HB 266 Short Title: **Revise governmental accountability act**
Primary Sponsor: Gilda Clancy

This bill provides that when a government entity takes a government act, a written statement of specific legal authority will be provided within 30 days of a request, or within 30 days of the act itself, whichever occurs last.

Effective Date: July 1, 2001

HB 271 Short Title: **Revise state-tribal cooperative agreements law**
Primary Sponsor: Joey Jayne

This bill extends the time allowed for submitting copies of state-tribal cooperative agreements to the Bureau of Indian Affairs, county and state officials from 10 days to 60 days.

Effective Date: Effective on passage and approval and applies to agreements entered into on or after the effective date.

HB 281 Short Title: **Governmental Internet Information Privacy Act**
Primary Sponsor: Monica Lindeen

This bill creates the Governmental Internet Information Privacy Act. The act establishes definitions and guidelines for government website operators regarding the collection of personally identifiable information.

Effective Date: October 1, 2001

HB399 Short Title: **Revise deposit of liquor license fees - time for publication of license notice**
Primary Sponsor: Joe McKenney

See Department of Revenue Sponsored Legislation section for description.

HB 474 Short Title: **Revise energy laws pertaining to large customers**
Primary Sponsor: Paul Sliter

This bill has many provisions affecting the electricity industry in the state; one affects the department: This bill extends universal systems benefits programs through December 31, 2005 and makes energy conservation measures for irrigated agriculture part of the universal systems benefits program. It does not change utilities' required funding for universal systems benefit programs. Any difference between the funding requirement and eligible utility and customer expenditures is paid to the state for state programs. This amount is not expected to be significant and is not expected to change because of this bill

Effective Date: Generally effective July 1, 2001.

HB 496 Short Title: **Generally revise procedures in civil cases**
Primary Sponsor: Larry Jent

This bill extends the time for enforcing a writ of execution from 6 to 10 years. It allows that a judgment lien may be extended an additional 10-year period upon filing a motion or through supplemental hearings if the judgment is not satisfied.

The bill establishes that a notice of levy must contain sufficient information to identify the judgment debtor. It establishes criteria for serving a writ by mail to corporations and other legal entities and establishes a 10-day time frame for a response from a third party holding property of the judgment debtor.

The bill establishes that a judgment rendered in justice court creates a lien on real property for 10 years. It extends the period for commencement of an action upon a judgment or decree from a court not of record from 6 to 10 years.

Effective Date: October 1, 2001

HB 548 Short Title: **DOR publication of annual effective tax rate for property classes**
Primary Sponsor: Joey Jayne

This bill amends language in 15-1-205, MCA that specifies the department's responsibilities in reporting information in the *Biennial Report*. The bill inserts language requiring the department to include the statewide average effective tax rate of taxable property for each tax class. The bill allows the department to determine if an appropriate tax rate may be derived for net proceeds, gross proceeds, agricultural land, and forestland.

Effective Date October 1, 2001

HB 579 Short Title: **Revise unemployment with respect to Tribes**
Primary Sponsor: Carol Juneau

See Department of Revenue Sponsored Legislation section for description.

SB 4 Short Title: **Clarify discharge from employment during probationary period**

Primary Sponsor: Duane Grimes

This bill establishes an assumed probationary period of 6 months when no probation period is specified. During the probationary period, employment can be terminated by either party for any reason or for no reason.

Effective Date: October 1, 2001

SB 8 Short Title: **Agency may adopt rules to implement act if rules are not effective before act**

Primary Sponsor: Mignon Waterman

This bill allows an agency to proceed with rulemaking after the enactment of a statute to be implemented by rule. The rule may not become effective prior to the effective date of the statute.

Effective Date: October 1, 2001

SB51 Short Title: **Public employee qualified health care expense accounts**

Primary Sponsor: Don Hargrove

SB51 may be cited as the "*Voluntary Employees' Beneficiary Association (VEBA) Act*". Under SB51, employees of contracting public employers will be able to annually designate the number of sick leave hours that will automatically be converted as an employer contribution to the employees' health care expense trust account. Contributions to the account, any income earned on investments of the account, and withdrawals from the account to pay for qualified health care expenses are exempt from individual income tax.

In order to participate in the plan, an employee must be a participating member of a common association for which the employer has entered into a contract with the Department of Administration to participate in the plan. Employees of a public employer *must* vote on the question to become plan members. The vote may be initiated either at the request of 25% of the employees, or may be initiated by the employer. *If a majority of the employees voting on the question vote to become plan members, then all of the employees that were eligible to vote, and any employees subsequently hired, must be formed as a common association and all employees must become plan members.*

A plan member may convert only sick leave in excess of 240 hours to an account, and no more than the maximum prescribed by the employer. *However, when the member's employment is terminated, the member's entire unused sick leave balance must be automatically converted to an employer contribution to the member's account, and may not be paid as a lump sum under 2-18-618(6).*

Members may invest their account in one of a number of investment vehicles selected by the Department of Administration. The funds may be accessed only for the payment of qualified health care expenses and until the funds have been exhausted. Funds may pass to a designated beneficiary as taxable income upon death of the account holder.

Effective Date: Effective on passage and approval except for Sections 7 - 12, which are effective the date that the secretary of state receives notice that the plan has been certified as tax exempt. These sections deal with plan implementation and with exemption from state income taxes.

SB 112 Short Title: **Allow 911 accounts to retain investment earnings**
Primary Sponsor: Linda Nelson

This bill would make statute conform to current practice and is the result of an audit report of the Department of Administration. Interest earned on the special revenue accounts established for basic 9-1-1 and enhanced 9-1-1 services would continue to flow to cities and counties that have an approved 9-1-1 plan. Without this bill the state, as trustee of the 9-1-1 special revenue accounts, would have to reimburse the general fund for interest earnings already distributed to local government units.

There should be no effect on revenue estimates as the interest earnings from the 9-1-1 special revenue accounts were not included in the general fund during previous periods.

Effective Date: This act is effective on passage and approval

Applicability Date: This act applies retroactively to:
(1) January 1, 1987, for all fees collected and interest earned from the investment of the money collected for basic 9-1-1 services under 10-4-201; and

(2) July 1, 1997, for all fees collected and interest earned from the investment of the money collected for enhanced 9-1-1 services under 10-4-201

SB142 Short Title: **Procedure when US becomes liquor license owner**
Primary Sponsor: Mike Sprague

See Liquor and Tobacco Tax section for description.

SB144 Short Title: **Transfer county collections report and other duties to Department of Revenue**
Primary Sponsor: Linda Nelson

Many sources of state revenue are initially collected by county treasurers. County treasurers submit collections belonging to the state along with a county collections report detailing the amount collected from each source. These remittances are then allocated among various state accounts. Currently, responsibility for the county collections report and distribution of state revenues resides with the Department of Administration. SB144 shifts responsibility for this process from the Department of Administration to the Department of Revenue. This will require coordination with HB124, as that bill changes the distribution of many of the revenue sources included in the county collections report.

Effective Date: July 1, 2001
Applicability Date: Applies to remittances for fiscal years beginning after June 30, 2001

SB 172 Short Title: **Clarifying distribution of income from certain state funds**
Primary Sponsor: Royal Johnson

This bill specifies that unrealized gains and losses of trust funds are not to be distributed as income. It applies to the coal severance tax trust fund and its sub-funds, the cultural and aesthetic projects trust, the parks acquisition trust, and the resource indemnity trust. This bill also specifies that unrealized gains and losses are not to be counted in determining when the balance of the resource indemnity trust has reached \$100 million.

Effective Date: Effective on passage and approval

SB 179 Short Title: **Revise budgeting and appropriation laws**
Primary Sponsor: Tom Zook

This bill makes statutes consistent with current financial systems and practices and amends statutes in response to legal opinion, recommendations, or the need to clarify legislative intent. It was written at the request of the Office of Budget and Program Planning with input from the Legislative Fiscal Division.

Effective Date: July 1, 2001

SB268 Short Title: **Resort area districts to receive lodging facility tax income**
Primary Sponsor: Don Hargrove

Under current law, 22.5% of accommodations tax receipts are distributed to regional non-profit tourism corporations and local convention and visitors bureaus. If 22.5% of collections in a city or consolidated city-county is greater than \$35,000, 11.25% of collections in that city or consolidated city-county is distributed to the regional non-profit tourism corporation and 11.25% is distributed to the local convention and visitors bureau. Otherwise, 22.5% of collections is distributed to the regional tourism corporation and none is distributed to the local convention and visitors bureau.

This bill would use the same formula to allocate funds to the convention and visitor's bureau of any resort area or resort area district where 22.5% of accommodations tax collections is greater than \$35,000.

Effective Date: July 1, 2001

SB 281 Short Title: **Notify owner of tax payment by other entity or tax sale action**
Primary Sponsor: Dale Mahlum

The provisions of the bill amend statute to expand notification requirements to a delinquent taxpayer when their property is subject to a tax sale. The provisions of the bill require the county treasurer to receive proof of mail notice to the person to whom the property was assessed before preparing a tax sale certificate or making an assignment of rights to property for payment of delinquent taxes. The notice must be received two weeks prior to the purchaser making payment on the property.

In addition, the bill also requires that a copy of the tax sale certificate or assignment certificate, along with notification that the person may contact the county treasure for further information on the tax sale or lien assignment, be sent via certified mail to the person to whom the taxes were assessed.

Effective Date: October 1, 2001

SB 326 Short Title: **Revise laws governing weeds**

Primary Sponsor: Mike Taylor

This bill amends existing laws relating to noxious weeds and provides funding for county weed control programs. This bill would transfer \$100,000 each fiscal year from the highway nonrestricted account to the noxious weed account. In fiscal 2003, it would transfer up to \$500,000 from any amount greater than \$100 million in the Resource Indemnity Trust. The resource indemnity trust is projected to end fiscal 2002 with a balance of \$100.834 million.

This bill specifies that the funds transferred to the noxious weed account from the highway nonrestricted account and the resource indemnity trust are to be distributed to counties for weed control.

This bill changes county governments' authority to levy taxes for weed control. It contains a formula for a minimum level for funding and authorizes counties to impose a tax within a special management zone for weed control within that zone on approval by a majority of the voters in the zone.

Effective Date: July 1, 2001

SB 356 Short Title **Attach board of review to department of revenue**

Primary Sponsor: Don Hargrove

This bill attaches the Board of Review to the Department of Revenue for administrative purposes only. It also clarifies membership on the board.

Effective Date: This act is effective on passage and approval

SB 484 Short Title: **Hard rock mining reclamation debt service fund**
Primary Sponsor: Tom A Beck

This bill creates a new hard-rock mining reclamation debt service fund and a new hard-rock mining reclamation special revenue account administered by the Department of Environmental Quality. It allocates 8.5% of metalliferous mines license tax collections to the hard-rock mining reclamation debt service fund, and eliminates the current-law allocation of 8.5% of revenue from this tax to the orphan share account.

Effective Date: July 1, 2002

SB514 Short Title: **Revise reporting of gain or loss from sale of real property**
Primary Sponsor: Lorents Grosfield

SB514 requires that information agents' duties (15-30-301) for the purposes of the individual income tax, include the reporting of proceeds from real estate transactions that under rules or regulations of the Internal Revenue Service are required to be reported. Information agents who fail to file an information return under these provisions are subject to a penalty equal to \$50 per return.

Effective date: July 1, 2001